

RECEIVED
CENTRAL FAX CENTER

OCT 17 2006

Atty. Dkt. No. 027209-1101

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-42 remain pending in this application.

Claims 1-42 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 5,872,890 to Lacombe (hereinafter "Lacombe"). Applicant respectfully traversed this rejection for at least the following reasons.

Embodiments of the present application are directed to heating device with a temperature sensor located in the heater. The temperature sensor is positioned in the heater, as exemplarily illustrated in Figure 3. By positioning the temperature sensor in the heater, the sensor is better able to detect overheating before a dry-run condition occurs.

The Office Action alleges that LaCombe discloses "temperature sensors located to determine the temperature and flow of fluid both at the inlet and outlet of the flow path." As noted in an earlier response, the Examiner's application of LaCombe to the claims provides no discussion of the position of the temperature sensor. The Office Action does not appear to allege that LaCombe discloses that the temperature sensors are in the heater. If such allegation is implied, Applicant respectfully disagrees with such interpretation of LaCombe.

LaCombe does not discuss the positioning of the temperature sensor within the heater. In fact, LaCombe clearly teaches away from such a design as can be seen in the figures by the placement of the thermistors (117 and 116) in a housing outside of the heater (13). Thus, the temperature sensor is not positioned in the heater, but rather is outside of the heater. The positioning of the thermistors illustrated in Figure 1 of LaCombe would detect an overheating condition at a much later stage than if the sensor is positioned within the heater, as recited in claims 1 and 41 of the present application. Thus, LaCombe would fail to detect overheating before a dry-run condition occurs.

Atty. Dkt. No. 027209-1101

Since LaCombe fails to teach or suggest a temperature sensor positioned in the heater, as recited in independent claims 1 and 41, claims 1 and 41 are patentable. Further, claims 2-40 depend from allowable claim 1, and claim 42 depends from allowable claim 41. Dependent claims 2-40 and 42 are patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

For example, claim 9 recites that the temperature sensor is arranged in a recess of the heater and the recess extends in a longitudinal direction of the heater. In addition to positioning a thermistor outside the heater, LaCombe fails to teach or suggest a temperature sensor positioned in a recess extending in a longitudinal direction of the heater. Thus, claim 9 is not anticipated by the cited reference.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Atty. Dkt. No. 027209-1101

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date October 17, 2006

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6735
Facsimile: (858) 792-6773

By Sanjeev K. Dhand

Sanjeev K. Dhand
Attorney for Applicant
Registration No. 51,182